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Technology Center 2100

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In re Application of:  
Shintaro SHIMOGORI et al. )  
Application No. 10/053,737 )  
Filed: January 24, 2002 )  
For: DATA PROCESSING SYSTEM, DATA )  
PROCESSING APPARATUS AND )  
CONTROL METHOD FOR A DATA )  
PROCESSING APPARATUS )  
) DECISION ON PETITION TO  
 ) WITHDRAW HOLDING OF  
 ) ABANDONMENT UNDER  
 ) 37 CFR § 1.181

This is a decision on the petition, filed on 12 July 2005, under 37 CFR §1.181 to withdraw holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely pay the required Issue and Publication Fees within the statutory period of three months from the mailing date of the Notice of Allowance. The Notices of Allowability and of Allowance and Issue Fee Due were mailed on 18 January 2005. A Notice of Abandonment was mailed on 25 May 2005.

In support of the petition, petitioner asserts that the Notice of Allowance and Issue Fee Due mailed 18 January 2005 was not received. Petitioner supplies (1) a statement that a review of the file did not locate any relevant documents; and (2) a copy of the print out from Applicant's Attorney's docket system reflecting the day that the Issue Fee was due.

The provided copy of the docket system shows no entry indicating receipt of the Notice of Allowance and Issue Fee Due mailed on 18 January 2005.

The relevant portion of MPEP § 711.03(c) states:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Notice entitled

"Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The undersigned interpreted the statement "a review of the file did not locate any relevant documents" as a statement that applicant's attorney did search of the file jacket and docket system indicated that the Notice of Allowance mailed 18 January 2005 was not received. Thus, Petitioner has met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Notice of Allowance and Issue Fee Due mailed 18 January 2005.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

Since the required issue and publication fees were paid on 12 July 2005, the application will be forwarded to the Office of Publication for further processing.



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